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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,859	03/23/2004	Steven R. Placek	1411	2476

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EXAMINER

SWINEHART, EDWIN L

ART UNIT PAPER NUMBER

3617

DATE MAILED: 03/08/2006

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/806,859  
Filing Date: March 23, 2004  
Appellant(s): PLACEK, STEVEN R.

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John D. Gugliotta  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed February 7, 2006 appealing from the Office action mailed June 8, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,766,838	Johnson	8-1988
4,624,209	Loffler	11-1986

828,072	Tenneson	8-1906
4,698,034	Anthonijsz	10-1987

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2,3 and 5-7 stand rejected under 35 U.S.C. 102(b) as being anticipated by Loffler.

Loffler discloses the claimed invention, including a hull of V-bottom shape (at least in the bow as shown), a "C-shaped" frame **17** (Figs. 13-15) attached on the inside of the hull for supporting a platform via pins **35**. Pins are positioned about the hull as claimed.

Claims 1,2,4,8 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tenneson in view of Johnson.

Tenneson discloses the field of the invention, including a small V-shaped hull watercraft including bench seats. Tenneson fails to disclose a platform as claimed.

Johnson discloses the claimed platform, including a framework (element **18** and **19** are C-shaped, and element **16,17,18** is C-shaped) which is adjustable, and supports a vertically adjustable seat **40** which resides upon a platform **33**.

Re “adjustable boat casting platform” and “fittingly attached...”, such are statements of intended use, carrying no real weight in the claim. Furthermore, Johnson is inherently capable of performing such intended use functions.

Re claim 9, such fails to define any specific structure and/or arrangement so as to define over the frame element **12**.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a platform to the watercraft of Tenneson as taught by Johnson .

Such a combination would have been desirable so as to provide a more comfortable seat to the user.

It would further have been obvious to the ordinary routineer working in the art at the time of the invention to position the platform where desired, and positioning between the existing bench seats would have been obvious, providing no unexpected results.

Re “captive pin”, such fails to define any specific structure and/or arrangement so as to define over the assembly bolts.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tenneson in view of Johnson as applied to claims 8 and 9 above, and further in view of Anthonijsz.

Tenneson fails to disclose side by side (end to end) platforms.

Anthonijsz teaches the addition of an intermediate support such that a plurality of seat platforms may be situated side by side.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an intermediate support/frame to Tenneson such that multiple platforms could be mounted next to each other.

Such a combination would have been desirable at the time the invention was made so as to provide additional seating.

Re "end to end", such fails to define any specific structure and/or arrangement so as to define over "side to side".

#### **(10) Response to Argument**

Appellant argues that Loffler is a kit intended for attachment to a multi-hulled watercraft in which the deck thereof assumes the contour of the two watercraft, and further argues Loffler fails to disclose a frame attached to the inside of a "single" V-bottom hull.

In response, the claims in no way positively recite a single hull in any fashion so as to define over attachment to multiple hulls. The element **17** of Loffler may be called a frame element, and it is attached to the inside of the hull. This frame element exhibits a shape which may clearly be called "C-shaped", both because of its external appearance, but also because of the C-shaped channel **31**, and the C-shaped outer edge defining the channel **31**.

Appellant argues that Johnson teaches an auxiliary seat for attachment to the sidewalls of a boat, and therefore not between bench seats as claimed.

It is the examiner's position, that the language "coupled between bench seats" is not a positive recitation of actual attachment to the seats. An element somehow coupled

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to the boat and merely residing within the area between such bench seats meets this limitation. As applied, the examiner has taken the position that one of ordinary skill in the art would recognize that the exact position of application of the seat of Johnson within a boat would have been an obvious choice, based upon desired location within the boat, and to position same anywhere within the boat of Tenneson, including a position physically placed between the existing bench seats is not patentable.

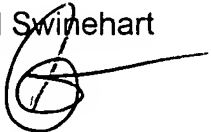
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ed Swinehart



Conferees:

Samuel Morano



Lesley Morris

